

# FISCAL NOTE

**Bill #:** HB0508

**Title:** Authority of attorney general to deny certification of improper ballot measure

**Primary**

**Sponsor:** Dan Harrington

**Status:** As introduced

Sponsor signature	Date	Dave Lewis, Budget Director	Date
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## Fiscal Summary

	<b><u>FY2000 Difference</u></b>	<b><u>FY2001 Difference</u></b>
<b>Expenditures:</b>		
General Fund	\$22,320	\$0
<b>Revenue:</b>	\$0	\$0
<b>Net Impact on General Fund Balance:</b>	<b>(\$22,320)</b>	<b>\$0</b>

<b><u>Yes</u></b>	<b><u>No</u></b>		<b><u>Yes</u></b>	<b><u>No</u></b>	
	X	Significant Local Gov. Impact		X	Technical Concerns
	X	Included in the Executive Budget		X	Significant Long-Term Impacts

## Fiscal Analysis

### ASSUMPTIONS:

1. The Attorney General (A.G.) reviews an average of 15 to 20 initiative and referendum petitions during each general election cycle.
2. Under current law (13-27-313(7), MCA), the A.G. has 21 days from the time of receipt within which to act on an initiative or referendum petition. Currently, the petitions are reviewed as to form and the A.G. prepares statements of purpose, implication, and fiscal impact. No determination is made regarding the constitutionality or legal validity of the measure.
3. The bill would require the A.G. to include in the review the substance of the petition for constitutionality or legal validity.

(continued)

4. It is assumed that the majority of petitions would be clearly constitutional and require little review to determine their validity for placement on the ballot. It is estimated that approximately 6 petitions per election cycle would require thorough research and analysis by the Department of Justice (DOJ), Legal Services Division to determine their validity.
5. Because the window of time for submission and circulation of initiative and referendum petitions is relatively short under the law, there are frequently numerous petitions being reviewed by the A.G. staff within a very short time frame. Currently, one staff attorney performs all of the reviews. However, if a review of the legality of each petition were required, it would be impossible for one staff attorney to complete such reviews within a sufficient time to allow circulation of petitions. Consequently, contracted legal services would be obtained from the Agency Legal Services Bureau to assist with the legal work necessitated by the bill.
6. It is extremely difficult to estimate the amount of time that would be needed on each petition to conduct a thorough review of legal validity. The time would depend upon the subject matter and complexity of the measure. For example, the principal attorney assigned to defend the CI-75 litigation spent approximately 160 hours researching and preparing the state's opening brief in the case. However, it is assumed that most petitions could be researched and reviewed in an average of 60 hours. Assuming that 6 petitions per general election cycle are submitted that requires thorough legal research, \$22,320 in contracted legal services would be required from Agency Legal Services Bureau (at \$62 per hour). [60 x 6 = 360 x 62 = 22,320]
7. The appropriation would only be required for the first year of each biennium, since initiative petitions are only voted on in general elections and must be submitted prior to mid-July of each general election year (13-1-101(12), 13-27-104, MCA).
8. Section 4 of the bill allows the A.G. legal sufficiency determination to be reviewed in court. It is assumed that the Legal Services Division would defend the A.G. position in any such litigation.
9. HB2 will include a biennial appropriation to the DOJ for major litigation in the amount of \$500,000. The costs of litigation brought under section 4 of the bill would be paid out of the major litigation appropriation. Depending on the costs of other litigation being handled by the DOJ, the litigation costs may or may not be covered by the major litigation budget.
10. There is no fiscal impact to the Secretary of State.

FISCAL IMPACT:

	<u>FY2000 Difference</u>	<u>FY2001 Difference</u>
<u>Expenditures:</u>		
Operating Expenses	\$22,320	\$0
<u>Funding:</u>		
General Fund (01)	\$22,320	\$0
<u>Revenues:</u>	\$0	\$0
<u>Net Impact to Fund Balance (Revenue minus Expenditure):</u>		
General Fund (01)	(\$22,320)	\$0